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**Executive**

**24 April 2007**

Report of the Director of City Strategy

## **Compulsory Purchase Order, York Bedding Company, Hungate**

### **Purpose of Report**

1. With reference to the approved planning application on Hungate (720 homes, office and retail space, community/ media technology building) the purpose of this report is to seek approval from Members to move forward with a Compulsory Purchase Order in order to proceed with the comprehensive regeneration and development of the Hungate area.
2. It follows on from the previous report to Executive, 7th February 2006, where Members resolved to utilise its compulsory purchase powers under the Town & Country Planning Act 1990 in order to proceed should negotiations fail to conclude within a reasonable timescale.
3. Negotiations between the landowner and developer have not managed to reach agreement on an acceptable acquisition price, and the developer of the site has formally asked the Council to exercise its compulsory purchase powers.
4. A formal requisition notice has been sent to the landowner and Statement of Reasons have been drawn up which sets out the Council's reasons for using its compulsory purchase powers (attached at Annex A of this report).

### **Background**

5. Hungate is located on the eastern edge of the city centre, between Castle Piccadilly and the river Foss. It was first allocated for residential development in the Draft York City Local Plan in 1995 and its allocation as a mixed use (housing and employment) site was confirmed in the City of York Deposit Draft Local Plan, May 1998.
6. Outline approval for the mixed use development of Hungate was granted by the City Council on 18<sup>th</sup> July 2005 and, on 22<sup>nd</sup> February 2007, planning permission was granted for the first (of five) reserved matters application.

## **Consultation**

7. There has been comprehensive consultation with the public, including the landowner, in progressing the site development brief and subsequent planning applications, and contact/ negotiation between the landowner and developer has been constant.

## **Legal Procedures**

8. Section 226 of the Town & Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004) enables local authorities to acquire land for development and other planning purposes if the Council think that the acquisition will facilitate the carrying out of development/ redevelopment or improvement in relation to the land.
9. ODPM Circular 6/04 gives further guidance on the justification for making an Order and makes it clear that land should only be taken compulsorily where there is clear evidence that a compelling case exists in the public interest.
10. The Council must consider whether the power it seeks to exercise are compatible with the European Convention on Human Rights, in particular Article 1 of the First Protocol of the Convention. This provides that every person is entitled to the peaceful enjoyment of his possessions and should only be deprived of those possessions if it is in the public interest and subject to the conditions provided for by law.
11. The Council must be satisfied that a fair balance has been struck between the public interest and those of the individuals whose interests are affected by the proposals. Further, the Council must be satisfied that the land which is subject of the CPO is the minimum necessary and proportionate to achieve its objectives.
12. The Order land forms a corner of the wider Hungate development. If the site is to be developed comprehensively, in line with the objectives of the development brief, planning application, design code and design statement, the Order land is required. If the land is excluded the development will have to be redesigned and a significant part of the development will be lost.

## **Options**

13. There are effectively 3 options to proceed with this development; (1) to continue without the York Bedding site, (2) to continue to seek acquisition of the site through negotiation, and (3) to proceed to CPO in order to acquire the land.
14. Option 1 would entail a complete redesign of the Hungate redevelopment scheme. The outline planning permission incorporates the York Bedding land, and it is considered integral to the success of the whole scheme (as set out in paragraphs 17 to 25 below).

15. Option 2 has been followed for over 3 years now and there is no indication that a suitable agreement will be reached. Continuation of this option would introduce risk to the overall project. Full planning permission has recently been granted for phase 1 of the development, and the phase 2 application is anticipated later this year, with the remaining three phases to follow.
16. Option 3 involves progression using the Council's CPO powers to acquire the land necessary for the full and comprehensive redevelopment of Hungate in accordance with the approved outline planning application. Negotiations to acquire the land can, in the meantime, continue.

## **Analysis**

17. To secure development of the whole site allocated in the development plan it is imperative there is a comprehensive approach to planning and redevelopment at Hungate. The City Council, initially through the mixed use allocation of the area in the Local Plan, encouraged comprehensive redevelopment of the area in 1996. The draft Local Plan, 1998 identifies the area as an Action Area for mixed use development (policy SP9).
18. This was reinforced through the release of a site development brief in 1999, which set out the Council's vision to create an exciting and attractive new riverside office, leisure and residential quarter adjacent to the city centre.
19. Following public consultation during December 2004 and January 2005, the Council's Planning Committee approved an updated and revised development brief for the site on 12th April 2005 for the purposes of guiding current and emerging planning applications. This reinforced the overall vision for the site as a unique opportunity for a major new mixed use scheme in this part of the city, and concluded that any development "should be brought forward in a comprehensive manner" (*paragraph 5.2 of brief*).
20. An outline application for comprehensive mixed use redevelopment of the whole area was submitted by the developers in December 2002 which, following public consultation and negotiation with the City Council following approval of the updated and amended site brief, was approved by the Council's Planning Committee on 28<sup>th</sup> July 2005.
21. The developer has acquired land identified on the attached plan (edged in bold, Annex B of this report), and acquisition of the remaining parcel of land (shaded on the plan and marked as '1' to conform with provisions of the Order) is considered to be both crucial and necessary in order to implement the development as set out in the approved outline application. Without it the development cannot go ahead and the wider public benefits arising from the regeneration of the area will not be achieved.
22. Economic and environmental improvements to the area which will arise from its proposed redevelopment include: -

- Contribution to the wider regeneration proposals taking place in the Foss Basin area and provision of a substantial financial contribution towards the first phase of the James Street link road, as well as improvements to the existing local road network.
  - Redevelopment of a brownfield site, recently occupied by demolished or rundown/ underused commercial buildings, which would bring commercial and employment benefits to the city.
  - Relocation of currently rundown and fragmented CYC Offices into a new purpose built city centre office space within the Hungate scheme.
  - Provision of city centre housing, including over 20% affordable provision for local people, which is in line with national and local guidance to provide new housing on underused and previously used land rather than on new greenfield sites.
  - Provision of convenience retail facilities in the city centre in line with the recommendations of the Roger Tym Retail Study, 2005.
  - Provision of a new focal building which will provide a city based hub for arts and small businesses, leisure, cultural opportunities and community facilities.
  - Improvements to the Foss corridor and Kings Pool nature reserve.
  - Improved cycle and pedestrian links between the site, the city centre and the housing and commercial areas to the east (Foss Islands, Layerthorpe, Heworth Green), including a new footbridge across the Foss.
  - Contributions towards the Council's sport and leisure strategy and education strategy through financial contributions to play space and public open space within or near to the site and to local schools.
  - Substantial financial contributions towards major archaeological excavations in the area.
23. It is recognised that the Council should only use its compulsory purchase orders as a last resort. Negotiations have been ongoing for a number of years between the developer, City Council and other landowners to secure all the land necessary for the regeneration of Hungate to go ahead, and this has now largely been accomplished. It is therefore important that these negotiations are either concluded or compulsory purchase powers are invoked if the scheme is to proceed.
24. It is considered that the only way to secure the comprehensive regeneration of the area is by agreement or by CPO. Negotiations with the York Bedding Company have continued since the previous report to Executive on 7<sup>th</sup> February 2006, but have failed to reach agreement.
25. Redevelopment of Hungate without the York Bedding site would be disjointed in terms of design, layout and use. The approved proposal followed over a year of detailed consideration with the City Council, developer, architect and Hungate Community Trust. The CYC Development Control Plan (Policy SP9) includes this site within the wider Hungate Action Area, and the site development brief and outline planning application incorporates it in the overall development vision and proposals.

## **Corporate Priorities**

26. Purchase of the York Bedding site will complete the comprehensive purchase of the Hungate development area. It will enable re-employment, residential, retail, community and leisure opportunities in the area and will, therefore, specifically address the following corporate priorities :
  - (1) Improve the actual and perceived condition and appearance of the city's streets, housing estates and publicly accessible spaces; and
  - (2) improve the quality and availability of decent, affordable homes in the city.

## **Next Steps**

27. If Members resolve to make a Compulsory Purchase Order it will be sealed and sent to the Secretary of State for Communities & Local Government for confirmation. If there are objections from the landowner there may be a public inquiry.

## **Implications**

28. **Financial** The developers, Hungate Regeneration (York) Limited, have agreed to fully finance any compensation and Inquiry costs, and any application to the Lands Tribunal which might follow and generally indemnify the Council's costs. There will therefore be no financial implications for the Council.
29. There are no other implications with respect to human resources, equalities, legal, crime and disorder, IT or property.

## **Risk Management**

30. There are no known risks associated with the proposed CPO.

## **Recommendation**

31. That Members resolve to make a Compulsory Purchase Order pursuant to Section 226 (1) (a) of the Town & Country Planning Act 1990 on the York Bedding site at Hungate, York and Officers be authorised to take all necessary steps to prepare the CPO.

Reason: In order to acquire the outstanding parcel of land necessary to enable development to proceed, with all the Council's costs to be incurred by the developer of Hungate.

## Contact Details

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**Final Report Approved****Date** 13.04.2007**Wards Affected:****All** 

**For further information please contact the author of the report**

## Background Papers

- City of York Local Plan, Deposit Draft May 1998
- Hungate Site Development Brief, CYC September 2002
- Report to CYC Planning Committee, 28<sup>th</sup> July 2005 - Hungate Development Site
- Report to CYC Executive, 7<sup>th</sup> February 2006 - Compulsory Purchase Orders, Ambulance Station Site and York Bedding Company, Hungate

## Annexes

Annex A – Statement of Reasons

Annex B – Site Plan